

REMARKS

The examiner is suggesting that claim 17 and claim 18 be used to split off two inventions and acknowledges that at least claims 1 and 13 are generic relative to these two claims.

Applicant finds it hard to split the invention on two subordinate claims which actually are not mutually exclusive or unique within the main claims of the invention. Either one could validly be modified to be dependent on the other. Further relative to claim 17 or claim 18 all the other claims are generic. Since claim 18, in particular, can be amended to be dependent on claim 17 selecting claim 17 would not exclude any of the other seventeen claims from the class containing it. An election to satisfy 35 USC §1.21 will be made below simply formal compliance.

Before that, applicant desires to have examiner acknowledge the statements below reflecting the true status of this case prior to assignment to him. In particular supervisory patent examiner Jose Dees and applicant's attorney had an in-person interview which included his suggestion as to an amendment to claim 1 to obtain allowance. Response to his suggestion led to the amendments submitted on June 6, 2003. It would seem after complying with the suggestion of the supervisory examiner, rather than allowance, the file is being reopened for new examination. We would like a formal answer as to how this is a reasonable progression in the prosecution of this case.

Since no acknowledgement has been made to the arguments presented after the last action on the merits, we again state them for review. Claim 1 has been amended to obviate the rejection of claims 1-2 and 4-20 under 35 USC §112 and 35 USC §103(a). In particular, and in accordance with the agreement reached between myself and Examiner Dees in the interview with Examiner Dees of 28 May 2003, the word "intact" has been removed to overcome the 112 rejection and the limitations of claim 4 (now canceled) have been incorporated into claim 1. In that interview, Examiner Dees agreed that Schaefer does not teach that the swelling composition opens the hair follicles, and thus the amendment should render the claim non-obvious in view of the prior art. Thus, the amendment of claim 1 should be sufficient to overcome Examiner's rejections and render claims 1-2 and 5-20 allowable. Claims 2 and 5-20 have also been amended to correct minor grammatical errors.

To simply satisfy the formal requirements of a request to elect under 35 USC §1.21, we elect the dependent claim 18 as an example of a limited aspect of the invention presented in the

specification. Within its class claims 1,2 5-16 and 18-20 can lie. We will refrain from amending claim 17 so that it is restricted to only the aspects covered by claim 18. Applicant also requests that the search include the particulars of claim 1 without the added points of claim 13 and claim 18.

With these changes and remarks it is believed that the disclosure is now in condition for allowance. Reconsideration is respectfully requested. An early and favorable response is earnestly solicited. If necessary, a telephone call would be appreciated to discuss any further final changes to be made to render the claims allowable. Thank you.

Respectfully submitted,



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